

ORDINANCE NO. 950

AN ORDINANCE OF THE BOROUGH OF MONROEVILLE AUTHORIZING THE APPROPRIATE OFFICIALS TO ENTER INTO AN AGREEMENT WITH RALPH J. MUROVICH ASSOCIATES, A.I.A., ARCHITECTS.

BE IT ORDAINED AND ENACTED by the Borough of Monroeville in Council assembled, as follows:

SECTION I. That the appropriate officials of the Borough of Monroeville are hereby authorized to enter into an agreement with Ralph J. Murovich Associates, A.I.A., Architects, for the purpose of serving as architects for the design and architectural consultation with respect to the construction of a municipal building and a public works building. A copy of said Agreement is attached hereto, made a part hereof and marked Exhibit "A".

ORDAINED AND ENACTED this 8th day of July, 1975.

ATTEST:

BOROUGH OF MONROEVILLE

S/ Marshall W. Bond
Secretary

By S/ George C. Dale
President of Council

(SEAL)

EXAMINED AND APPROVED this 15th day of July, 1975.

S/ R. E. Droske
Mayor

EXHIBIT "A"

AGREEMENT

THIS AGREEMENT made this 8th day of July in the year of Nineteen Hundred and Seventy-five (1975),

BETWEEN the BOROUGH OF MONROEVILLE, Monroeville Boulevard, Monroeville, Allegheny County, Pennsylvania, 15146, hereinafter called the OWNER, and RALPH J. MUROVICH ASSOCIATES, A.I.A., 103 Smithfield Street, Pittsburgh, Pennsylvania, 15222, hereinafter called the ARCHITECT.

It is the intention of the owner to construct a municipal building and a public works building in Monroeville, Allegheny County, Pennsylvania, 15146, hereinafter referred to as the PROJECT.

The OWNER and the ARCHITECT agree as set forth below.

1. The ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of this Agreement.

2. The OWNER shall compensate the Architect, in accordance with the Terms and Conditions of this Agreement, as follows:

a) FOR THE ARCHITECT'S BASIC SERVICES, as described in Article 1, Paragraphs 1.1 through 1.1.20, inclusive, a professional fee of SEVEN AND ONE-HALF PERCENT (7-1/2%) of the total construction cost as defined in Article 3.

b) FOR THE ARCHITECT'S ADDITIONAL SERVICES, as described in Article 1, Paragraphs 1.2.1, 1.2.4, 1.2.5, and 1.2.11, a professional fee of FOUR AND ONE-HALF PERCENT (4-1/2%) of the total construction cost as defined in Article 3.

c) FOR THE ARCHITECT'S ADDITIONAL SERVICES, as described in Article 1, Paragraphs 1.2.2, 1.2.3, 1.2.6, 1.2.7, 1.2.8, 1.2.9, 1.2.10, and 1.2.12 through 1.2.20, inclusive, a sum computed as follows:

I. Principal's time at the fixed rate of FORTY DOLLARS (\$40.00) per hour.

II. Employees' time computed at a multiple of TWO AND ONE-HALF (2-1/2) times the employees' Direct Personnel Expense as defined in Article 4.

Services of professional consultants at a multiple of TWO (2) times the amount billed to the Architect for such services.

The rates and multiples set forth in this Paragraph 2c will be subject to renegotiation if the services covered by this Agreement have not been completed within thirty (30) months of the date hereof.

d) AN INITIAL PAYMENT OF ZERO DOLLARS (\$0.00) shall be made upon the execution of this Agreement and credited to the Owner's account.

ARTICLE 1. - ARCHITECT'S SERVICES

1.1 BASIC SERVICES:

The Architect's Basic Services consist of the five phases described below.

SCHEMATIC DESIGN PHASE

1.1.1 The Architect shall consult with the Owner to ascertain the requirements of the Project.

1.1.2 The Architect shall prepare Schematic Design Studies consisting of drawings illustrating the scale and relationship of Project components for approval by the Owner.

1.1.3 The Architect shall submit to the Owner a Statement of Probable Construction Cost based on current area, volume or other unit costs.

DESIGN DEVELOPMENT PHASE

1.1.4 The Architect shall prepare from the approved Schematic Design Studies, for approval by the Owner, the Design Development Documents consisting of drawings to fix and describe the size and character of the Project.

1.1.5 The Architect shall submit to the Owner a further Statement of Probable Construction Cost.

CONSTRUCTION DOCUMENTS PHASE

1.1.6 The Architect shall prepare from the approved Design Development Documents, for approval by the Owner, Working Drawings and Specifications setting forth in detail the requirements for the construction of the Project including the necessary bidding information, and shall assist the Owner in the preparation of bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and the Contractor.

1.1.7 The Architect shall advise the Owner of any adjustments to previous Statements of Probable Construction Cost indicated by changes in the general construction market conditions.

1.1.8 The Architect shall assist the Owner in filing the required documents for the approval of governmental authorities having jurisdiction over the Project.

BIDDING OR NEGOTIATION PHASE

1.1.9 The Architect, following the Owner's approval of the Construction Documents, shall assist the Owner in obtaining bids or negotiated proposals, and in awarding construction contracts.

CONSTRUCTION PHASE--ADMINISTRATION OF THE CONSTRUCTION CONTRACT

1.1.10 The Construction Phase will commence with the award of the Construction Contract and will terminate when the final Certificate for Payment for construction is issued to the Owner.

1.1.11 The Architect, as the representative of the Owner during the Construction Phase, shall advise and consult with the Owner.

1.1.12 The Architect shall at all times have access to the Work wherever it is in preparation or progress.

1.1.13 The Architect shall make periodic visits to the site to familiarize himself generally with the progress of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an architect, he shall endeavor to advise the Owner of defects and deficiencies in the Work of the Contractor. The Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

1.1.14 Based on such observations at the site and on the Contractor's Applications for Payment, the Architect shall estimate the amount owing to the Contractor and shall acknowledge Certificates for payment in such amounts. The issuance of a Certificate for Payment shall constitute an acceptance by the Architect, based on his observations at the site as provided in subparagraph 1.1.13 and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that to the best of the Architect's knowledge, information and belief, the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount requested. By issuing a Certificate for Payment, the Architect shall not be deemed to represent that he has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

1.1.15 The Architect shall be, in the first instance, the interpreter of the plans and specifications.

1.1.16 The Architect shall advise the owner so that he may reject Work which, in the Architect's judgment, does not conform to the Contract Documents. Whenever, in his professional opinion, he considers it necessary or advisable to insure the proper implementation of the intent of the Contract Documents, he will advise the Owner to request special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work be then fabricated, installed or completed.

- 1.1.17 The Architect shall review shop drawings, samples, and other submissions of the Contractor only for conformance to the design concept of the Project.
- 1.1.18 The Architect shall prepare Change Orders.
- 1.1.19 The Architect shall conduct inspections to determine the Dates of Substantial Completion and final completion, shall receive and review written guarantees and related documents assembled by the Contractor, and shall issue a final Certificate for Payment.
- 1.1.20 The Architect shall not be responsible for the acts or omissions of the Contractor, or any subcontractors, or any of the Contractor's or subcontractor's agents or employees, or any other persons performing any of the Work.

1.2 ADDITIONAL SERVICES:

If any of the following Additional Services are authorized by the Owner, they shall be paid for by the Owner as hereinbefore provided.

- 1.2.1 Providing special analyses of the Owner's needs, and programming the requirements of the Project.
- 1.2.2 Providing financial feasibility or other special studies.
- 1.2.3 Providing site surveys, site evaluations, or comparative studies of prospective sites.
- 1.2.4 Providing design services relative to future facilities, systems and equipment which are not intended to be constructed as part of the Project.
- 1.2.5 Providing services to investigate existing conditions or facilities or to verify the accuracy of drawings or other information furnished by the Owner.
- 1.2.6 Preparing documents for alternate bids or out-of-sequence services requested by the Owner.
- 1.2.7 Providing Detailed Estimates of Construction Cost or detailed quantity surveys or inventories of materials, equipment and labor.
- 1.2.8 Providing interior design and other services required for or in connection with the selection of furniture and furnishings.
- 1.2.9 Providing services for planning tenant or rental spaces.
- 1.2.10 Making revisions in Drawings, specifications or other documents when such revisions are inconsistent with approvals or instructions previously given and are due to causes beyond the control of the Architect.
- 1.2.11 Making investigations involving detailed appraisals and valuations of existing facilities.

- 1.2.12 Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth in Paragraph 1.1 as may be required in connection with the replacement of such Work.
- 1.2.13 Providing professional services made necessary by the default of the Contractor or by defects in the Work of the Contractor in the performance of the Construction Contract.
- 1.2.14 Preparing a set of reproducible record prints of drawings showing significant changes in the Work made during the construction process, based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.
- 1.2.15 Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operating and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.
- 1.2.16 Providing Contract Administration and observation of construction after the Construction Contract Time has been exceeded or extended by more than 20 days through no fault of the Architect.
- 1.2.17 Providing services after issuance to the Owner of the final Certificate for Payment.
- 1.2.18 Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.
- 1.2.19 Providing services of other professional consultants.
- 1.2.20 Providing any other services not specifically included in this Agreement.

ARTICLE 2. - THE OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information regarding his requirements for the Project.

2.2 The Owner shall designate, when necessary, a representative authorized to act in his behalf with respect to the Project. The Owner or his representative shall examine documents submitted by the Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's work.

2.3 The Owner shall furnish a certified land survey of the site giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and complete data pertaining to existing buildings, other improvements and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.

2.4 The Owner shall furnish the services of a soils engineer. Such services include reports, test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests and other necessary operations for determining subsoil, air and water conditions, with appropriate professional interpretations thereof.

2.5 The Owner shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents.

2.6 The Owner shall furnish such legal, accounting, and insurance counselling services as may be necessary for the Project, and such auditing services as he may require to ascertain how or for what purposes the Contractor has used the moneys paid to him under the Construction Contract.

2.7 The services, information, surveys and reports required by Paragraphs 2.3 through 2.6 inclusive shall be furnished at the Owner's expense, and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

2.8 If the Owner observes or otherwise becomes aware of any fault or defect in the Project or non-conformance to the Contract Documents, he shall give prompt written notice thereof to the Architect.

2.9 The Owner shall furnish information required of him as expeditiously as necessary for the orderly progress of the Work.

ARTICLE 3. - CONSTRUCTION COST

3.1 The Construction Cost shall be the total cost or estimated cost to the Owner of all Work designed or specified by the Architect, and shall be determined as follows, with precedence in the order listed:

3.1.1 For completed construction, the total cost of all such Work;

3.1.2 For Work not constructed, (1) the lowest bona fide bid received from a qualified bidder for any or all of such Work, or (2) if the Work is not bid, the bona fide negotiated proposal submitted for any or all of such Work; or

3.1.3 For Work for which no such bid or proposal is received, (1) the latest Detailed Estimate of Construction Cost if one is available, or (2) the latest Statement of Probable Construction Cost.

3.2 Construction Cost does not include the compensation of the Architect and consultants, the cost of the land, rights-of-way, or other cost which are the responsibility of the Owner as provided in Paragraphs 2.3 through 2.6 inclusive.

3.3 Labor furnished by the Owner for the Project shall be included in the Construction Cost at current market rates including a reasonable allowance for overhead and profit. Materials and equipment furnished by the Owner shall be included at current market prices, except that used materials and equipment shall be included as if purchased new for the Project.

3.4 Statements of Probable Construction Cost prepared by the Architect represent his best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has any control over the cost of labor, materials, or equipment, over the contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the Architect cannot and does not guarantee that bids will not vary from any Statement of Probable Construction Cost or other cost estimate prepared by him.

ARTICLE 4. - DIRECT PERSONNEL EXPENSE

4.1 Direct personnel Expense of employees engaged on the Project by the architect includes architects, engineers, designers, job captains, draftsmen, specification writers and typists, in consultation, research and design, in producing Drawings, Specifications and other documents pertaining to the Project, and in services during construction at the site.

4.2 Direct personnel expense includes cost of salaries and of mandatory and customary benefits such as statutory employee benefits, insurance, sick leave, holidays and vacations, pensions and similar benefits.

ARTICLE 5. - REIMBURSABLE EXPENSES

5.1 Reimbursable Expenses are in addition to the Compensation for Basic and Additional Services and include actual expenditures made by the Architect, his employees, or his professional consultants in the interest of the Project for the expenses listed in the following subparagraphs:

5.1.1 Expense of transportation and living when traveling in connection with the Project; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project.

5.1.2 Expense of reproductions, postage and handling of Drawings and Specifications excluding duplicate sets at the completion of each Phase for the Owner's review and approval.

5.1.3 If authorized in advance by the Owner, expense of overtime work requiring higher than regular rates and expense of renderings or models for the Owner's use.

5.1.4 Expense of computer time when used in connection with Additional Services.

ARTICLE 6. - PAYMENTS TO THE ARCHITECT

6.1 Payments on account of the Architect's Professional Fee shall be made as follows:

6.1.1 An initial payment as set forth in Paragraph 2d (page 2) is the minimum payment under this Agreement.

6.1.2 Subsequent payments of the Professional Fee shall be made monthly in proportion to services performed so that the total payments on account of the Professional Fee at the completion of each Phase of the Architect's Services shall equal the following percentages:

Schematic Design Phase	15%
Design Development Phase	35%
Construction Documents Phase	75%
Bidding or Negotiation Phase	80%
Construction Phase	100%

6.2 Payments for Principals' time, employees' time and services or professional consultants as provided in Paragraph 2b, (page 2) and for Reimbursable Expenses as defined in Article 5 shall be made monthly upon presentation of the Architect's statement of services rendered.

6.3 No deductions shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors.

6.4 If the Project is suspended for more than three months or abandoned in whole or in part, the Architect shall be paid his compensation for services performed prior to receipt of written notice from the Owner of such suspension or abandonment, together with Reimbursable Expenses then due and all terminal expenses resulting from such suspension or abandonment. If the Project is resumed after being suspended for more than three months, the Architect's Compensation shall be subject to renegotiation.

6.5 Payments due the Architect under this Agreement shall bear interest at the legal rate commencing thirty days after the date of billing.

ARTICLE 7. - ARCHITECT'S ACCOUNTING RECORDS

Records of the Architect's Direct Personnel, Consultant and Reimbursable Expenses pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the Owner or his authorized representative at mutually convenient times.

ARTICLE 8. - TERMINATION OF AGREEMENT

This agreement may be terminated by either party upon seven days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. In the event of termination due to the fault of others than the Architect, the Architect shall be paid his compensation for services performed to termination date, including Reimbursable Expenses then due and all terminal expenses.

ARTICLE 9. - OWNERSHIP OF DOCUMENTS

Drawings and Specifications as instruments of service are and shall remain the property of the Architect whether the Project for which they are made is executed or not. They are not to be used by the Owner on other projects or extensions to this Project except by agreement in writing and with appropriate compensation to the Architect.

ARTICLE 10. - SUCCESSORS AND ASSIGNS

The Owner and the Architect each binds himself, his partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet or transfer his interest in this Agreement without the written consent of the other.

ARTICLE 11. - ARBITRATION

11.1 All claims, disputes and other matters in question arising out of, or relating to, this agreement or the breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law.

11.2 Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

11.3 The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE 12. - EXTENT OF AGREEMENT

This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

ARTICLE 13. - GOVERNING LAW

Unless otherwise specified, this Agreement shall be governed by the law of the principal place of business of the Architect.

Agreement

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THIS AGREEMENT executed the day and year first written above.

OWNER:

For the Borough of Monroeville

ATTEST:

ARCHITECT:

Ralph J. Murovich

Witness:
